

AT A PUBLIC HEARING AND REGULAR MEETING OF THE HAMPTON PLANNING COMMISSION HELD IN THE COUNCIL CHAMBERS ROOM, 8TH FLOOR, CITY HALL, HAMPTON, VIRGINIA, ON OCTOBER 11, 2004 AT 3:30 P.M.

PRESENT: Chairman Timothy B. Smith; and Commissioners James A. Young, Regina Brayboy, Ralph A. Heath, III, George E. Wallace, and Angela Leary

ABSENT: Vice-Chairman Perry T. Pilgrim

ITEM I. ROLL CALL

A call of the roll noted Vice-Chairman Perry T. Pilgrim as being absent. (**NOTE:** Vice-Chairman Pilgrim was present during Item V, Section B of the Preliminary Subdivision, but had to leave between the public hearing items due to a prior commitment.

Chairman Smith welcomed Commissioner Young to the Planning Commission.

ITEM II. MINUTES

There being no additions or corrections, a motion was made by Commissioner Ralph A. Heath and seconded by Commissioner Regina Brayboy, to approve the minutes of the September 13, 2004 Planning Commission meeting. A roll call vote on the motion resulted as follows:

AYES:	Young, Brayboy, Heath, Wallace, Leary, Smith
NAYS:	None
ABST:	None
ABSENT:	Pilgrim

ITEM III. STAFF REPORTS

A. Youth Planner Report

Mr. Jacob Berg, Youth Planner, stated during the month of September, they have been working with the School Investment Panel. This month, a group of students was formed to assist the adult panel with the budget proposals in order to finalize their decisions for the school investment. A presentation was made to the adult panel citing the majority of changes the youth wanted which is represented in the proposal, and the young people approved the recommendations. The panel appeared to have taken the comments to heart and implemented changes to correspond with the youth along with other public suggestions. The Youth Planners then gave a similar presentation in a joint meeting with the School Board and City Council as part of the adult panel's presentation. He stated another important meeting that took place was the Buckroe Charrette. This was a meeting with the youth and adults to discuss changes needed in the Buckroe area. The meeting was held on September 15th specifically for the youth,

and six youth solicited input on both the ups and downs of the Buckroe area. Some of the changes suggested by the youth included lighting and plans for more activities near the beach. He stated September was also the month that the Youth Commission began gearing up for the school year. The Youth Commission held their first work session and committee meeting. Some of the activities the committees are working on include the Hampton Youth Commission website, which will be launched on October 18, publicizing the public meetings, and overall new and better advertising in the school and community.

Chairman Smith commended the Youth Commission for their participation in the Buckroe Master Plan. He stated many of the ideas from the youth mimic the issues that the adults have addressed, so everyone is working in the same direction.

B. Zoning Ordinance

Ms. Caroline Butler, Chief Planner, stated the Commission is aware that staff has been working with Clarion Associates, a consulting firm in Denver, Colorado, to draft a new Zoning Ordinance for the City of Hampton. The city's current code was adopted in 1960, but over the recent years, the Ordinance no longer works for the type of community that the city represents now and in the future. One of the main ways to implement the new community plan is through the Zoning Ordinance, and staff is fortunate to be able to do both the Community Plan and Zoning Ordinance at the same time. Staff has worked with not only the consultants, but a number of city staff in various departments who are users of the Ordinance, as well as boards and commissions, stakeholders group, advisory group, and representatives from the City Attorney's Office, Planning Department, the Zoning Administrator, Board of Zoning Appeals and the Planning Commission. Staff will be receiving the first draft of the new Zoning Ordinance from the consultants soon. A lot of work and input has gone into the Ordinance from city staff and organizations mentioned, and staff is excited about receiving it. As soon as the Zoning Ordinance is received, staff will distribute it to the Commission for comments, and discuss it at one of the Planning Commission work sessions in the future. Staff will be having a future meeting between the Planning Commission, Clarion Associates, and the Urban Design Associates, who are the consultants for the city's Community Plan. This meeting should occur after the first of the year.

ITEM IV. PRELIMINARY SUBDIVISION

- A. **Copeland Business Center** a 13.8183± acre zoned Heavy Manufacturing District (M-3) proposed subdivision located at the intersection of Aluminum and E Streets, containing up to 6 commercial parcels.

Mr. Brian Ballard, City Planner, presented the staff report, a copy of which is attached hereto and made a part hereof. The proposed subdivision plat is in conformance with the 2010 Comprehensive Plan and other city ordinances.

After discussion, the Commission approved the following resolution:

WHEREAS: The Hampton Planning Commission has before it this day, Copeland Business Center preliminary subdivision, a proposed 13.138± acre development located at the intersection of 'E' Street and Aluminum Avenue fronting 660'± on the north side of Aluminum Avenue and 1014'± on the west side of 'E' Street, with a maximum depth of 1014'± and maximum width of 920'± with access from 'E' Street and Aluminum Avenue; and

WHEREAS: The property is zoned Heavy Manufacturing District (M-3) which permits uses such as concrete products manufacturing, freight classification yard, distribution plants, and office and data processing centers; and

WHEREAS: The subdivider, Lester Hudgins, seeks conditional approval of six commercial parcels as shown on the preliminary subdivision plat of Copeland Business Center, dated September 30, 2004; and

WHEREAS: The subject subdivision plat is in conformance with the 2010 Comprehensive Plan which recommends industrial development for the area where the proposed subdivision will be located; and

NOW, THEREFORE, on a motion by Commissioner Regina Brayboy, and seconded by Commissioner Perry T. Pilgrim;

BE IT RESOLVED that the Hampton Planning Commission recommends that Copeland Business Center Preliminary Subdivision Plat be approved up to six commercial parcels, as being in conformance with the 2010 Comprehensive Plan.

A roll call vote on the motion resulted as follows;

AYES:	Young, Brayboy, Heath, Pilgrim, Wallace, Leary and Smith
NAYS:	None
ABST:	None
ABSENT:	None

B. **Mercury Plaza** a 25.58± acre zoned Limited Commercial District (C-2) and Special Public Interest District-Coliseum Central (SPI-CC) proposed subdivision located at the intersection of Mercury Boulevard and Power Plant Parkway, containing up to 6 commercial parcels and 1 parcel to serve as a private street as ingress/egress to the other 6 parcels.

Mr. Brian Ballard, City Planner, presented the staff report, a copy of which is attached hereto and made a part hereof. The proposed subdivision plat is in conformance with the 2010 Comprehensive Plan and other city ordinances.

After discussion, the Commission approved the following resolution:

WHEREAS: The Hampton Planning Commission has before it this day, Mercury Plaza preliminary subdivision, a proposed 25.58± acre development located at the intersection of Mercury Boulevard and Power Plant Parkway fronting 890'± on the south side of Mercury Boulevard and 980'± on the west side of Power Plant Parkway, with a maximum depth of 1100'± and maximum width of 1800'± with access from Mercury Boulevard and Power Plant Parkway; and

WHEREAS: The property is zoned Limited Commercial District (C-2) and Special Public Interest-Coliseum Central District (SPI-CC) which allows for restaurants, retail sales, and business or professional office commercial uses; and

WHEREAS: The subdivider, Mall Properties, seeks conditional approval of six commercial parcels and one parcel serving as a private street for ingress/egress to the other six parcels as shown on the preliminary subdivision plat of Mercury Plaza, dated September 30, 2004; and

WHEREAS: The subject subdivision plat is in conformance with the 2010 Comprehensive Plan which recommends commercial/mixed-use development for the area where the proposed subdivision will be located; and

NOW, THEREFORE, on a motion by Commissioner Regina Brayboy, and seconded by Commissioner Angela Leary;

BE IT RESOLVED that the Hampton Planning Commission recommends that Mercury Plaza Preliminary Subdivision Plat be approved up to six commercial parcels and one parcel serving as a private street for ingress/egress to the other six parcels, as being in conformance with the 2010 Comprehensive Plan.

A roll call vote on the motion resulted as follows;

AYES:	Young, Brayboy, Heath, Pilgrim, Wallace, Leary and Smith
NAYS:	None
ABST:	None
ABSENT:	None

C. **River Run Estates Re-subdivision** a resubdivision of lot 5, a 1.13+ acre parcel within the River Run Estates Subdivision, located north of Little Back River Road off Riverview Drive, zoned One-Family Residence District (R-13), increasing the total number of lots in the subdivision from 7 to 8 lots.

Mr. Brian Ballard, City Planner, presented the staff report, a copy of which is attached hereto and made a part hereof. The proposed subdivision plat is in conformance with the 2010 Comprehensive Plan and other city ordinances.

After discussion, the Commission approved the following resolution:

WHEREAS: The Hampton Planning Commission has before it this day, River Run Estates preliminary re-subdivision, a proposed split of lot 5; a 1.13± acre parcel within the River Run Estates development generally located north of Little Back River Road, fronting 110' on the north side of River Run Court at its terminus, with a maximum depth of 250'± and access to the development will be from Riverview Drive; and

WHEREAS: The property is zoned One-Family Residence District (R-13) which allows a minimum of 12,000 square foot lots with 80 feet of frontage and 2,000 square foot dwellings; and

WHEREAS: The subdivider, Bill Sykes, seeks conditional approval of the split of Lot 5 that will increase the total lots in River Run Estates subdivision from 7 to 8 lots as shown on the preliminary subdivision plat, dated September 30, 2004; and

WHEREAS: The subject subdivision plat is in conformance with the 2010 Comprehensive Plan which recommends low density residential development for the area where the proposed subdivision will be located; and

NOW, THEREFORE, on a motion by Commissioner Ralph A. Heath III, and seconded by Commissioner Regina Brayboy;

BE IT RESOLVED that the Hampton Planning Commission recommends that River Run Estates Preliminary Re-Subdivision Plat of Lot 5 be approved that will result in a total of eight single family residential lots in the entire River Run Estates development, as being in conformance with the 2010 Comprehensive Plan.

A roll call vote on the motion resulted as follows;

AYES:	Young, Brayboy, Heath, Pilgrim, Wallace, Leary and Smith
NAYS:	None
ABST:	None
ABSENT:	None

ITEM V. PUBLIC HEARING

Mr. O'Neill read the public hearing item notice on the agenda as advertised in the Daily Press on September 27, 2004 and October 4, 2004.

A. Rezoning Application NO. 1193

Rezoning Application No. 1193 by Hampton Roads Development, LLC to rezone approximately 1.32 acres of property at 705 Todds Lane from One Family Residence (R-13) District to One Family Residence (R-11) District to develop a single family residential subdivision. The property fronts 145± feet on the north side of Todds Lane and 312± feet on the west side of Mary Ann Drive with a depth of 291± feet. The 2010 Comprehensive Plan recommends residential development. R-13 permits single family residences at a density of 2.5 – 3.5 units per acre. R-11 permits single family residences at a density of 3.5 04.5 units per acre.

Mr. George Fiscella, Hampton Roads Development, LLC, stated the proposed request is to rezone property located at 705 Todds Lane from R-13 to R-11. He stated the surrounding area has a mix of R-13 and R-11. The average lot area will exceed 12,000 square feet which is R-13. The dwelling will be built on crawl space and the average price range will exceed \$300,000. He stated part of the land will be given to the city for a pump station which is needed in the area.

Mr. Edward Haughton, Senior City Planner, presented the staff report, a copy of which is attached hereto and made a part hereof. He stated the proposal is consistent with the adopted public policies for this vicinity as stated in the 2010 Comprehensive Plan and Todds Lane/Big Bethel Road Corridor Study.

Ms. Kimberly K. Mumford, 16 Mary Ann Drive, stated Mary Ann Drive is a private road and has been until one of her neighbors sold their property and rights of the road to the developers, and she was not informed. She stated the road is very small, and their mail boxes are at the entrance of the road, and the entrance is one way in and one way out. She wanted to know if the road is going to be widened, if it would become a public road instead of private, if their mail boxes would be re-directed onto their property, and if there would be sewer, drainage and sidewalks put in.

Mr. Haughton stated the road as it stands today is a private road. The developer shows the road in the future as public. He mentioned that staff is only addressing the development of the proposed request, and there is a proposal for a 22 lot subdivision that will come before the Commission in the future.

Mr. O'Neill stated in addressing Ms. Mumford's question, the road is shown as being constructed up to Ms. Mumford's property.

Ms. Mumford stated no one has approached her regarding developing the road for public use, nor did they approach her parents who bought property near the proposed site and who believed the road would remain private.

Mr. Haughton stated these concerns can be discussed and resolved when the subdivision plan is submitted to the city, but as of today, staff is only presenting the rezoning.

In response to a question by Chairman Smith regarding part of the road remaining private, Ms. Mumford stated it does not change vehicles entering and exiting from the proposed area. She stated with the pre-school adjacent to the site which is constantly entering and exiting the area, as well as homeowners entering and exiting there will be even more traffic when the homes are constructed. She stated before her neighbor sold his rights to the road, there was no way to make it a public road.

Commissioner Pilgrim stated by-right, if the applicant wanted to build at R-13, three houses could be built today. He stated this comes down to one additional house. All other issues (i.e., trees coming down, road going in), could happen anyway when the preliminary subdivision is submitted. He stated in regards to traffic, it would change lives, but it is only a one house difference that is a by-right use.

In response to a question by Commissioner Leary, Mr. O'Neill stated staff normally does not go to a level of a full subdivision review until after the Commission review which focuses on land use. Staff typically makes sure that any insurmountable issues (i.e., public utilities, sewer, traffic, drainage, access, etc.) are addressed when the preliminary subdivision is submitted to the city for review. Unless issues are brought to staff's attention, which are related to land use, then staff does not deal with that level of detail at this point and time.

In response to a question by Commissioner Leary, Mr. O'Neill stated he and Mr. Haughton will talk and coordinate with Mr. Whitley, City Engineer of Public Works, to try to make sure more information is given to the residents, and Ms. Mumford will be their point of contact.

Ms. Mumford stated she took the time to cross busy traffic to take pictures of the proposed road and site, and distributed those pictures to the Commission.

In response to a comment by Commissioner Pilgrim, Mr. O'Neill stated the city ordinance does not require the Planning Commission to hold a public hearing to review preliminary subdivisions, but what staff will do prior to the subdivision coming before the Commission is address any issues with the property owners who have questions, and make sure that they know what information is available.

After discussion, the Commission approved the following resolution:

WHEREAS: The Hampton Planning Commission has before it this day, an application by Hampton Roads Development, LLC to rezone 1.32 ± acres located at 705 Todds Lane from One Family Residence (R-13) District to One Family Residence (R-11) District in order to develop a single family residential subdivision; and

WHEREAS: One Family Residence (R-13) District allows single family dwellings at a density of 1.5 to 2.5 units per acre, 12,000 square foot lots and One Family Residence (R-11) District allows single family dwellings at a density of 3.5 to 4.5 units per acre, 9,000 square foot lots and 1,700 square foot dwellings; and

WHEREAS: While the development will result in one additional lot under the requested zone change to One Family Residence District (R-11), it affords the opportunity for orderly development of all adjacent properties owned by the applicant in the vicinity under one residential zoning district; and

WHEREAS: This proposal is consistent with the surrounding neighborhood and land use; and

WHEREAS: The proffers offered ensure a higher value product with dwellings constructed on crawl spaces that exceed the square footage for dwelling units in the R-13 District, i.e., 2400 square foot dwellings with 400 square foot garage; and

WHEREAS: There were questions raised by the public about the status of the private road, Mary Ann Drive. Staff has agreed to meet with the residents along Mary Ann Drive to address concerns that they may have regarding the proposed development; and

WHEREAS: The 2010 Comprehensive Plan and the Todds Lane/Big Bethel Road Corridors Study encourage single family development in this vicinity.

NOW, THEREFORE, on a motion by Commissioner Regina Brayboy, and seconded by Commissioner Ralph A. Heath, III;

BE IT RESOLVED that the Hampton Planning Commission respectfully recommends to the Honorable Hampton City Council that Rezoning Application No. 1193 be approved with conditions.

A roll call vote on the motion resulted as follows:

AYES:	Young, Brayboy, Heath, Pilgrim, Wallace, Leary, Smith
NAYS:	None
ABST:	None
ABSENT:	None

Mr. O'Neill read the next public hearing item notice.

B. Rezoning Application No. 1194

Rezoning Application No. 1194 by William Scott Jr. to rezone 1.187 ± acres of property located at 1593 Briarfield Road from Neighborhood Commercial District (C-1) to Limited Commercial (C-2) for a car wash. The property fronts 125'± on the north side of Briarfield Road, approximately 230'± west of its intersection with Aberdeen Road, with a depth of 441'±. The 2010 Comprehensive Plan recommends commercial/mixed use. C-1 permits multi-family uses, offices, and retail sales of convenience goods and personal services. C-2 permits multi-family uses, offices and community and regional scale retail and commercial uses.

Mr. William Scott, Jr., applicant, stated the subject property is located at 1593 Briarfield Road, and is currently zoned C-1 and he is requesting C-2 for a car wash. He stated vehicles will be driven inside the car wash, and no vehicles will be stored on the site. The property has an irregular shape, and he is going to request a variance regarding the parking requirements on stacking lanes for the car wash facility; however, he believes there is plenty of parking on the proposed site.

Mr. Edward Haughton, Senior City Planner, presented the staff report, a copy of which is attached hereto and made a part hereof. While the current C-1 zoning allows for the proposed barber college, it does not permit a freestanding car wash facility. A car wash requires C-2 zoning district. He stated staff is recommending denial of the rezoning request because C-2 supports regional commercial uses, which is not the appropriate zoning district for this neighborhood commercial node, and the proposal is not consistent with the adopted public policies and 2010 Comprehensive Plan for this vicinity.

In response to a question by Commissioner Heath, Mr. Haughton clarified that although there are several properties zoned C-2 in the vicinity, the current uses on these properties are permitted in the C-1 district and do not require the C-2 zoning designation. He stated rezoning the property to C-2 could encourage other requests for C-2 uses in the vicinity.

In response to a comment by Commissioner Pilgrim regarding the current C-2 zones, Mr. Haughton stated staff does not want to intensify these uses, even though there are several properties zoned C-2 in the immediate vicinity.

Mr. O'Neill stated one of the dilemmas that staff has been confronted with in researching the case is they are not sure, given the scarcity of previous records on the C-2 properties in the subject area, as to why these properties were considered appropriate for C-2 commercial uses. In our recent history of this area, going back 20 or 25 years, the commercial nodes which are surrounded by neighborhoods would have been essentially limited to C-1 which is neighborhood convenient type uses, and not C-2 uses which are normally found on major regional arterial roads. He stated he has

discussed with Mr. Haughton that from a land use clarity perspective, perhaps staff should consider going back and taking all of the C-2 properties in the subject area and rezone them to C-1, given that those existing uses are C-1.

In responses to question by Commissioner Young, Mr. Haughton stated the subject property is zoned correct for a barber college and it can operate under C-1, but the car wash is the issue.

Mr. Scott stated if his property is approved by the Commission and zoned C-2, it would be an upscale building, and there will be jobs available for the young people. He stated he does know of one situation in Hampton where there is a barber shop and car wash. He believes it would be unfair to him if this request was denied when there are C-2 properties surrounding his site.

Mr. Haughton stated in the staff report it was noted that the Zoning Ordinance does not address the hand wash type of car wash facility, but it is specific about the parking and stacking requirements for a car wash facility. The proposal, as drawn, does not meet these requirements and the applicant may seek relief from these requirements through the Board of Zoning Appeals.

In response to a question by Commissioner Smith, regarding the distance of the car wash from the nearest apartments, Mr. Scott pointed to the diagram on the slide, and stated the proposed building would be approximately fifteen to twenty feet from the building. He stated in his proffers, he has offered a continuation of Opaque Evergreen Hedges on the western property line, or a six foot vinyl fence installed to screen the view of the apartment building and parking lot. The building would fit and be an asset to the community, and he is before the Commission to support himself, his family, and perhaps help someone else.

In response to question by Chairman Smith, Mr. Scott stated the building will be a car wash, and if a person wants to spend more money, they would receive a detailed car wash. He stated the car wash would be performed on the inside of the building in a controlled environment and operated professionally.

In response to a question by Chairman Smith, Mr. Scott stated the barber college would house fifteen chairs for the students, seven chairs for the barber shop and one classroom to teach students.

Commissioner Wallace asked Mr. Scott if he would consider operating the barber shop/college without the car wash. He relayed to him that he did not have to answer the question at this time.

In response to a comment by Commissioner Leary and Chairman Smith regarding a retention tank and water filtration system for the facility, Mr. Scott stated the cars will be washed in a non-toxic type environment similar to washing cars in a yard.

In response to a comment by Chairman Smith, Mr. O'Neill stated he does know enough about the volume of water for the business or what is required of Mr. Scott to dispose of potential oils that would be running off, or of a system to catch it before it ends up in the sewer.

Mr. Haughton stated the Zoning Ordinance mentions requirements for two types of car wash facilities, which is self-service car wash and all other car wash. Mr. Scott's car wash falls under "all other." He stated there are parking space requirements for "all other," and the way the conceptual plan is laid out, the request does not meet the requirements.

Mr. O'Neill stated Mr. Shapiro just informed him that the city's plumbing code would more than likely require an oil and grease separator on the premises for water.

Commissioner Wallace asked Mr. Scott if he had anticipated making an investment for an oil/grease separator for the car wash, because if the request is denied, it can't be brought back for another year.

Mr. O'Neill stated if the Commission recommends denial of the application, and it is forwarded to Council, and Council denies the application, then there is a one year waiting period before the application can be brought back for public hearing. He stated Mr. Scott has the other option of withdrawing the application before it gets publicly advertised before City Council, or the item can be deferred to a specified date.

In response to a question by Commissioner Heath, Mr. O'Neill concurred that if the application is denied, Mr. Scott can continue to operate the barber college/barber shop because it is a by-right use.

Mr. Scott stated if the Commission recommends approval today, and if there are requirements for an oil/separator, he will do this if his pocket allows it. He stated if he cannot afford it, then the Commission would not hear from him again.

In response to a comment by Commissioner Young, Mr. Haughton stated properties to the northeast of the site zoned C-2 includes a fraternal lodge, church day care, child care, hair clinic, gas station and food mart, and to the south is the Aberdeen Post Office, zoned C-1. To the east is the Disabled American Veterans Post, Bojangle's fast food restaurant and the Fisherman Seafood restaurant, zoned C-1.

In response to a question by Mr. Scott, Mr. Haughton stated it is his understanding that the garage is not in operation.

Mr. Scott stated the garage is in operation because he had work done on his vehicle the other day.

Mr. Haughton stated he spoke with Codes, and he was informed that the garage was not in operation, but it is something he will look into. He stated the garage is zoned C-1.

In response to a question by Commissioner Heath, Mr. Haughton stated Mr. Scott cannot proffer the oil/grease separator because this is a requirement which he will have to do in order to operate the car wash.

Mr. O'Neill stated the oil/grease separator would be a requirement when the site plan is submitted by Mr. Scott to meet code requirements, so it is not an option, if he proceeded forward.

After discussion, the Commission approved the following resolution:

WHEREAS: The Hampton Planning Commission has before it this day, an application by William Scott Jr. to rezone 1.187± acres located at 1593 Briarfield Road from Neighborhood Commercial District (C-1) to Limited Commercial District (C-2) for a free-standing car wash; and

WHEREAS: Neighborhood Commercial District (C-1) allows retail sales of convenience goods and personal services, multi-family and offices, and Limited Commercial District (C-2) allows regional scale retail and commercial uses; multi-family; offices and free-standing car wash facilities; and

WHEREAS: The 2010 Comprehensive Plan encourages commercial mixed land uses in this vicinity; and

WHEREAS: Although there are several properties zoned C-2 in the vicinity, the current uses on these properties are uses permitted in the C-1 zoning district and do not require the C-2 zoning designation; and

WHEREAS: This area is a neighborhood commercial node and the uses in the area should remain of a neighborhood oriented character; and

WHEREAS: Proffers are attached that address site layout, building materials, lighting and hours of operation and limitation of the C-2 uses to only a car wash facility; and

WHEREAS: The proposal does not meet the parking requirements relative to stacking lanes per Zoning Ordinance and the applicant will seek relief from this self imposed hardship through the Board of Zoning Appeals; and

WHEREAS: Denial of this proposal will not cause the existing business to cease or prevent the proposed barber collage from operating; and

WHEREAS: While the Commission made two motions on the proposal, one to approve and one to deny, the motion to deny carried.

NOW, THEREFORE, on a motion by Commissioner Ralph A. Heath, and seconded by Commissioner James A. Young;

BE IT RESOLVED that the Hampton Planning Commission respectfully recommends to the Honorable Hampton City Council that Rezoning Application No. 1194 be approved with conditions.

A roll call vote on the motion resulted as follows:

AYES:	Young, Heath
NAYS:	Brayboy, Wallace, Leary, Smith
ABST:	None
ABSENT:	Pilgrim

Because the first motion was not supported, the second motion was approved as follows:

A motion was made by Commissioner George E. Wallace, and seconded by Commissioner Angela Leary to deny Rezoning Application No. 1194. A roll call vote on the motion resulted as follows:

AYES:	Brayboy, Wallace, Leary, Smith
NAYS:	Young, Heath
ABST:	None
ABSENT:	Pilgrim

C. **Use Permit No. 998**

Mr. O'Neill read the next public hearing item notice.

Use Permit Application No. 998 by New Mount Olive Christian Academy to construct and operate a private school at 66 Big Bethel Road for approximately 120 children, ages 5–12. The property is zoned One Family Residence (R-9), which permits schools with an approved use permit. The 2010 Comprehensive Plan recommends low density residential uses for this area.

Mr. Billie Millner, Attorney, 701 Towns Center Drive, Newport News, representing the applicant, stated the applicant currently operates a day care on Aberdeen Road, and due to their success, they had to turn away students because there is not enough room. The applicant has been working on a plan to develop a day school that would accommodate grades one through five located in a modular building at 66 Big Bethel Road. The school would be opened 6:00 a.m. to 6:00 p.m. Monday through Friday. There will be buses that will unload and load children off the public street onto the

property. The school will have seven classrooms, and the playground area will be between the new facility and the two homes facing Joynes Roads. He stated this is a good, safe, Christian environment. The facility would accommodate between 100 to 120 students. He stated the average student today would cost approximately \$7,000, to go to school. When the church educates rather than the city educating, this is a savings to the City of Hampton. But more importantly, it is a great education and it provides a Christian atmosphere where they can work closely with the parents. He stated the church is subsidizing some of the cost of tuition for the parents, and they are making every effort to provide education to these children who want to attend the school. He stated this service will help reduce public transportation, serves the neighborhood, and he hopes the Commission will support the request.

Ms. Stephanie Mertig, City Planner, presented the staff report, a copy of which is attached hereto and made a part hereof. She stated staff recommends approval of the application because the use is compatible with the surrounding neighborhood and the recommendations of the 2010 Comprehensive Plan.

Ms. Claritta J. Counts, 104 McCall Court, stated she did not receive a notice of the meeting, but heard it through the grapevine. She wanted to know where the water would go because every time they get a Nor'easter, she has to pack and leave home. She stated in order to build a school where they are proposing, it floods, and the land would have to be elevated. She lost items due to flooding and she wanted someone to address her concerns about flooding.

Ms. Mertig stated adjacent property owners are notified, and she has notified property owners further up Joynes Road to the west. She stated staff is legally only required to notify those property owners who are touching the edge of the property, but she went further and notified other property owners nearby the site.

In response to a question by Ms. Counts, Ms. Mertig stated she cannot specifically answer where the water would go, but these concerns would be addressed during the site plan development process with Public Works, and they would not let the developer do anything that would cause flooding to adjacent properties.

Mr. Millner stated this is the first step to developing the facility, and the step further along would be site plan approval. At that point, detailed engineering studies would be made. He stated this same issue was raised by Ms. Count at the neighborhood meeting. He was able to speak to Mr. Fred Whitley, City Engineer before he left this meeting, and was informed that the subject property would drain into a catch basin, and would go into the city's storm drainage system, and ultimately into Newmarket Creek.

In response to a question by Chairman Smith, Mr. Millner stated any stormwater runoff would go into the new catch basin that would be constructed as part of the drainage system. The water would be diverted to go into the existing city system.

Mr. O'Neill stated one of the great misunderstandings and dilemmas that the residents in city of Hampton face is understanding the difference between tidal flooding and flooding that may or may not occur from development that runs off the roof, building or parking lot. Comments regarding flooding associated with Nor'easters is not the same type of flooding as that which may be caused by runoff from development. A Nor'easter is a much bigger issue that the city as a whole has to address. He knows it is hard to explain and understand, but there is a difference in what Mr. Millner and Ms. Mertig has described. He stated new developments are required to deal with drainage so that their predevelopment discharge of water is released into the outfall, and it is the same as before the building is built.

Mr. Millner stated he could remember how the drainage was years ago with Newmarket Creek, and how the situation today is much better than it used to be due to the cooperation of the City of Hampton and Newport News.

Ms. Virginia Oglesby, 206 Joynes Road, stated she moved into the area in 1972 and will retire in the area. She was a resident in the subject area before the church existed. She stated since the church has expanded to the magnitude that it is now, she has had a terrible time trying to get out of her driveway. If she does not back her vehicle in the driveway, she would have to sit for approximately five minutes to get out. She has constantly had to call the police because of someone blocking her driveway. She stated activities are being held at the church every night and every day. She does not have sufficient parking for herself in the area, and the traffic is bad. She has four more years before she retires, and her plan is to live in the area without noise. She has raised her children and have grandchildren, and she can understand noise from children, but she would not like to hear noise from children 6:30 in the morning. She has to be at work early in the morning, and the days she is on vacation, she does not want to hear car doors slamming and traffic going in and out of the driveways. Looking back, she recalled the flood in 1999, and stated her house did not flood nor did the church or its parking lot, and residents asked if they could park their cars on the church parking lot to keep it from flooding. She stated the church is not community friendly, and she would like to continue to live in a nice, quiet, peaceful neighborhood. The majority of the community is retired residents, and they do not want the noise or traffic early in the morning. She stated it was mentioned that a traffic study is not needed, but she finds it hard to come out her driveway on a Monday through Friday evening, and it is almost impossible.

In response to a question by Commissioner Leary, Ms. Mertig stated Traffic Engineering has informed staff that the request does not cause enough impact on Big Bethel Road to require a traffic study and it would not impact the level of service.

In response to a question by Commissioner Leary, Ms. Mertig stated there is ingress/egress on Joynes Road, and Big Bethel Road, which has two entrances and three exits.

In response to a question by Commissioner Young, Ms. Mertig stated she has been informed by Traffic Engineering that a traffic study normally is not required unless a site generates one hundred trips per day.

In response to a question by Mr. O'Neill, Ms. Mertig stated she could not recall the level of service, but she remembers it would not change.

Mr. Millner stated approximately 50% of the students will be bussed which will decrease the number of vehicles entering the site. The idea plan is to have a traffic pattern that will ease the flow of vehicles entering and exiting the site. He stated on behalf of the applicant, Pastor Rylander, he has tried and will continue to work with the neighbors. He stated the confusion and overlapping of vehicles is more on Sundays, and the day school will be open during the weekdays, and they will be able to use the existing parking on the site for the day school.

In response to a question by Chairman Smith, Mr. Millner stated the ultimate plan is to enter and exit on Big Bethel Road.

Mr. Randolph Rylander, applicant and pastor of the church, stated he lives at 56 Big Bethel Road which is behind the church. He stated a traffic survey was reviewed, and it was reported that the day school would not have an effect on Big Bethel Road as of today. He stated two different surveys were prepared, and there was no change.

Mr. O'Neill stated a clarification of staff's analysis relative to parking is that given the hours of operation of the school, the school itself would not substantially add to the current situation. He stated how to solve the problem that exist in the area now is a fair question, but for better or worse, staff has tried to analyze only the request before the Commission today, knowing that there is a bigger issue that needs some resolution regardless of the outcome of the applicant's current request.

Ms. Margretta Hughes, 200 Joynes Road, stated traffic is a concern because since the church has gotten to the magnitude that it has, there never has been enough off-street parking. There are cars, especially on Sundays that are on Joynes Road which expand two to three blocks. She wanted to know if there is going to be a solution to this problem because it has been this way for over ten years. She was under the impression that when the property was brought across the street from her, those houses would be demolished and used for parking, but it has not happened.

Chairman Smith stated the decision that the Commission makes today is based on a request to put a school on the property that would serve 120 students per day, but the parking issue will not resolved today. He stated it sounds like the church has outgrown the site. He conveyed to the applicant that they should be a good neighbor and find a way for the residents to be able to park in front of their own house.

Pastor Rylandor stated they have made every effort to accommodate their neighbors. When the hurricane occurred, he allowed the neighbors to park their cars on

the church property and kept the church opened for them. He stated the deacons are on the ground during the worship experience, making sure no one blocks someone's driveway. He stated if someone's driveway has been blocked, they should call the church and he will make every effort to move the vehicle because he does not want to inconvenience the neighbors. They are there to serve the neighborhood, not to create a problem in the neighborhood. He stated the church is in a process of continuing to better the neighborhood. Because there are two services on Sundays, they have gone to the extent of purchasing property adjacent to the church. He apologized to the residents in the audience, and asked that they let them know that there is a problem with someone blocking their driveway.

In response to a question by Chairman Smith, Mr. O'Neill stated based on staff's analysis, they do try to encourage for obvious environmental and Chesapeake Bay reasons, that on sites where you can have shared parking that you don't pave over anymore property than you need to. The demand for the school will be day time hours, and staff did not see a need for additional parking.

In response to a comment by Chairman Smith, Mr. O'Neill stated the dynamics of a private school are other than the people who are employed at the school. This is not permanent parking for 120 students or vehicles delivering the students, but it's the number of employees that will be at the school from morning to late afternoon. To the best of staff's ability from talking with the people at the church, most of the peak hour usage during the week is in the evening hours, and the school is not open in the evening and on weekends when the church experiences its highest demand for parking.

In response to a question by Chairman Smith, Ms. Mertig stated the number of lined parking spaces on the site is approximately 55.

In response to a question by Commissioner Young, Mr. Rylander stated there is a power line near the site that they cannot build under for parking spaces, but they do have crush rock on the site for parking that can accommodate an estimated of 200± cars.

Mr. O'Neill stated this is not the first church parking neighborhood issue that staff has had. The current ordinance as it relates to parking requirements for churches is antiquated in terms of what the modern day churches do, how long they are there, the multitude of service they provide, which tends to have more bodies on the property simultaneously. He stated when he was a little boy, back when this ordinance was drafted, there were more small neighborhood oriented churches. People would come to service and then leave, which was the basis for what the ordinance was drafted on previously. What staff is finding now is the parking ratio for churches, particularly larger churches that have multitude of family programs, is inadequate to meet the current usage of the properties, which is one of the things that will need to be changed in the ordinance. But at this point, staff's review is if they meet the current ordinance.

Chairman Smith addressed his concerns regarding the insufficiency of parking spaces and the need for additional parking to accommodate the vehicles.

Commissioner Wallace stated the Commission does not have a basis intuitively to make that judgment. Staff relies on Traffic Engineering to make that choice. An assessment was done on the basis of what the needs are, and the recommendation is that it is not going to have a negative impact on the traffic pattern in terms of volume for the school. Because there is no parking requirement for this situation, the only concern is whether the ingress/egress and volume can handle the school, and it can, so there is no parking issue in context of hours of operation of the school.

Commissioner Leary addressed her concerns regarding parents coming to the school for particular functions that could occur on nights when something else is going on, which will require parking. She stated with seven acres of land, it seems to her that there should be some additional parking on site. She stated Council faces massive problems with Big Bethel Road all the time with traffic issues. In looking at the surrounding neighborhoods and listening to the pastor comment on the number of attendees at his church on Sundays, which speaks very highly of him as a leader, but when there is an estimated 800 divided between two services, there is not enough parking spaces for the people. She does not want to compound or make the traffic any worse. She believes that there has to be a way to address the problems that the neighbors have whether it's marking a spot in front of their house, etc. She believed these issues should be addressed, and that Mr. Rylander is a partner or stakeholder in this situation. She informed Mr. Rylander that he will be going before Council, and he needs to find a way to address parking in the future, especially to help the neighbors.

Mr. O'Neill stated if this is the sentiment of the Commission, he would ask the Commission to consider deferring the case in order to give staff the time to go out and give a report that will give some order of magnitude of what may be the additional parking necessary. He stated staff would have to go out on Sunday mornings and Wednesday evenings to count cars that are not on site so that they can give real data on what is the impact to the neighborhood and what is the order of magnitude of the solution if staff is going to look at on-site parking at the church. He stated if this is the direction of the Commission, his preference is to let staff go out and get that data for them.

Mr. Donald Smith, 60 Big Bethel Road, stated he has no problem with the school, but he was concerned if his property would depreciate or accelerate because of the school.

Chairman Smith stated he believed with the size of the property and the well built building, which is being displayed, he does not see a problem of depreciation.

Mr. Millner stated the church use and school use can operate and use the same parking spaces. He predicts that the two white buildings that are currently used for Sunday School classrooms on the site may be demolished once the modular is built on

the site, which will free up room for parking. He asked the Commission not to defer the request but to support the request, so the building can open up by the next school year.

After discussion, the Commission approved the following resolution:

WHEREAS: New Mount Olive Baptist Church has requested a Use Permit to construct and operate a private school at 66 Big Bethel Road; and

WHEREAS: The property is zoned One-Family Residence District (R-11), which permits schools with an approved Use Permit; and

WHEREAS: The church proposes to share existing church parking to meet parking requirements since peak activity hours are not in conflict; and

WHEREAS: Traffic circulation patterns and effects on adjacent roadways have been evaluated and found to be acceptable; and

WHEREAS: As a condition of approval, staff has attached conditions relative to proper licensing, capacity, hours of operation, loading and drop-off areas, spaces to be occupied, future expansion and inspections; and

WHEREAS: The 2010 Comprehensive Plan recommends low density residential uses, and schools are generally permitted uses in a residential zone; and

WHEREAS: Three persons spoke in opposition to this request at the public hearing. Complaints included flooding, drainage, traffic and parking during church activities; and

WHEREAS: a Commissioner requested that staff provide additional information to the Council regarding traffic and parking caused by regular church services.

NOW, THEREFORE, on a motion by Commissioner George E. Wallace, and seconded by Commissioner James Young,

BET IT RESOLVED that the Hampton Planning Commission does recommend to the Honorable City Council, approval of Use Permit No. 998, subject to eight (8) conditions.

A roll call vote on the motion resulted as follows:

AYES:	Young, Heath, Brayboy, Wallace
NAYS:	Leary, Smith
ABST:	None
ABSENT:	Pilgrim

ITEM VI. PLANNING DIRECTOR'S REPORT

Ms. Caroline Butler, Chief Planner, presented a land use request that was brought to the attention of the Planning Department and the Neighborhood Office by residents who live in Pasture Point. The area is characterized with a mixture of land uses and zoning. There are fifteen single-family houses currently zoned manufacturing. The current Zoning Ordinance does not allow single-family uses in manufacturing districts. They are either non-conforming uses that are allowed to continue to exist and expand as long as setback requirements are met. But if the property is destroyed in excess of 75% of its replacement cost or if the use is discontinued as a single-family residence for a period of 24 consecutive months or longer, it cannot be replaced. This puts some of these long time homeowners at some risk of their properties. The Neighborhood Office and Planning Department have held two meetings with Pasture Point neighborhood regarding the rezoning. Certified letters were sent out to the fifteen property owners regarding the proposal. Staff has heard from ten of the fifteen property owners, and nine support of the rezoning, and one denied the rezoning. The majority of the owners who have not responded to the proposal do not live in Pastures Point, and their properties are rental. She stated there are several residents in the audience in support of the rezoning, and she asked the Commission to authorize a public hearing for the rezoning at the November meeting.

A motion was made by Commissioner Ralph A. Heath and seconded by Commissioner Angela Leary to authorize a public hearing for a city sponsored comprehensive rezoning of Pasture Point. A roll call vote on the motion resulted as follows:

AYES:	Young, Brayboy, Heath, Wallace, Leary, Smith
NAYS:	None
ABST:	None
ABSENT:	Pilgrim

ITEM VII. ITEMS BY THE PUBLIC

There were no items by the public.

ITEM VII. MATTERS BY THE COMMISSION

Commissioner Leary requested that additional information be given to City Council for Use Permit #998.

ITEM IX. ADJOURNMENT

There being no additional items to come before the Commission, the meeting adjourned at 6:52 p.m.

Respectfully submitted,

Terry P. O'Neill
Secretary to Commission

APPROVED BY:

Timothy B. Smith
Chairman